

REMARKS

Claims 1- 37 are pending in the application. Claims 1, 16, 18, 21 and 26 have been amended. Reconsideration of this application is respectfully requested.

The Office Action rejects claims 1-3, 7, 8, 11, 13, 16-18, 20, 21, 23, 26, 28-30, 32, 33, 36 and 37 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,115,646 to Fiszman et al., hereafter Fiszman.

This rejection is traversed for the reasons set forth below.

Independent claim 1 has been amended to recite

“providing a change state function for a user to change a current state associated with an object to a next state associated with said object, said change state function verifying compliance with said user-defined state transitions”.

The Examiner contends that Fiszman discloses this step at column 6, lines 20-50, and especially lines 43-49. This citation describes execution by servers of a set of in attribute values of activities and to capture execution statuses in a set of activities' out attributes. There is no description in this citation of “a change state function for a user to change a current state....”. This citation merely describes an execution using the in attributes of a set of activities and the capture of the status of out attributes of a set of activities. It is unclear from this citation whether the in attributes and out attributes are of the same or different activities. There is no mention of any state being changed. Therefore, Fiszman lacks the above quoted step of amended independent claim 1.

With respect to independent claim 11, the Examiner contends in paragraph 10 of the Office Action that Fiszman's action is the user entry procedure for definition of a process as depicted in Fig. 9. Therefore, the object must be Fiszman's code that is used to execute the user entry procedure. Fiszman does not disclose or teach the determining, retrieving and providing steps recited in claim 11, because Fiszman only teaches to execute the user entry procedure code to perform the user process definition. Thus, Fiszman does not do a determination of whether such code has been checked in, a retrieval of the state of such code, a determination from the retrieved definition of whether the action is permissible or provide a permission status as recited in amended independent claim 11.

Moreover, Fiszman lacks the step of "determining whether said object has ever been checked-in to a source control system". The Examiner contends that it is understood by one of ordinary skill in the art that Fiszman's "activities are displayed in a browse window only when they have already been determined to exist as existing components, i.e., checked in, of a process in a source control environment". The Examiner is citing the knowledge of one of ordinary skill in the art, which is a term of 35 U.S.C. 103, in support of a rejection under 35 U.S.C. 102(b), but cites no authority for doing so. Since the rejection is under 35 U.S.C. 102(b), the reliance on the knowledge of one of ordinary skill in the art is improper. Therefore, Fiszman lacks the step of "determining whether said object has ever been checked-in to a source control system".

Fiszman lacks at least the following step of independent claim 13:

"determining whether said user has permission to make said state transition based on user-defined transition restrictions".

The Examiner cites column 5, line 42, to column 6, line 3 as disclosure of this step. This citation merely recites "The build time part 22 is used by the roles

to: ...model, define roles and access privileges...". The Examiner further cites Figs. 11 and 16b and accompanying text. The only pertinent reference in the accompanying text is the "propagation rules are entered by an authorized role at build time.." at column 15, lines 64 and 65. The use of an authorized person to enter the propagation rules does not impute that the authority of user entering a process definition is also determined (checked). Therefore, Fiszman lacks the above quoted step of independent claim 13.

Independent claims 16, 18 and 21 have been amended as follows:

"wherein said fallback state is a life cycle stage of a qualification process".

Support for this amendment is in Figs. 2 and 14 and at paragraphs 41 and 49.

With respect to independent claim 16, the Examiner cites the knowledge of "one of ordinary skill in the art" to substantiate inherency. The Examiner's inherency position is challenged. The knowledge of "one of ordinary skill in the art" must be established by cited evidence. Moreover, the Examiner cites no authority for combining the term "one of ordinary skill in the art", which is from 35 U.S.C. 103 with a rejection under 35 U.S.C. 102(b). Therefore, the inherency position is improper. Moreover, the determining step with the Examiner's imputed inherency of software versioning does not give Fiszman enough to teach that the determining step is performed before the retrieving and providing steps as recited.

Fiszman does not teach or disclose a qualification process that has a life cycle stage. In particular, Fiszman's transition links are not life cycle stages as recited in amended independent claim 16. For these reasons, Fiszman does not anticipate amended independent claims 16, 18 and 21.

Independent claim 26 has been amended to recite:

“a life cycle process component executable on said processor to enforce compliance with user-defined life cycle states of objects of a control strategy of a plurality of devices of said process control system”, and

“a controller in communication with said processor via a network to be loaded with said objects to provide process control of said plurality of devices according to said control strategy”.

Support for this amendment is in Figs. 18 and 19 and paragraphs 0018, 0039, 0060 and 0061 of the specification. Fiszman does not disclose or teach a life cycle component executable on the processor regarding the objects of a control strategy for control of a plurality of devices of a process control system as recited in amended independent claim 26. Moreover, Fiszman does not disclose or teach a controller that is loaded with the objects to provide process control of said plurality of devices according to said control strategy as recited in amended independent claim 26. For this reason, the rejection of claim 26 is obviated by the amendment.

For the reason set forth above, it is submitted that the rejection of claims 1-3, 7, 8, 11, 13, 16-18, 20, 21, 23, 26, 28-30, 32, 33, 36 and 37 under 35 U.S.C. 102(b) as anticipated by Fiszman is either erroneous or obviated by the amendment and should be withdrawn.

The Office Action rejects claims 24, 25 and 27 under 35 U.S.C 103(a) as unpatentable over Fiszman.

With respect to independent claim 24 and its dependent claim 25, the Examiner admits that Fiszman does not disclose deletion of a state definition, but contends that despite this deficiency Fiszman's modification of a process

definition makes it obvious to add the deletion of a state to Fiszman. This contention is without merit. Fiszman teaches to select a state from a list of states. There is no description of deleting a state from the list or any state of the transition states (Figs. 9-12). Therefore, the steps of independent claim 24 are unobvious over the teaching of Fiszman.

The Examiner contends that it is well known that in Fiszman's GPAE (Fig. 9 and associated text), "deleting a state must have been provided". The simple fact is that Fiszman does not disclose or teach any deletion procedure. Therefore, Fiszman does not support the Examiner's contention. The Examiner then cites a "any graphical flow chart tool box, such as Microsoft Visio or Microsoft Word". Applicant challenges this citation as being general without any diagrams or description provided by Microsoft that supports the Examiner's contention. Without such evidence, the Examiner's contention is erroneous.

Moreover, in paragraph 7 of the Office Action dated August 2, 2006, the Examiner appears to be inventing a deletion procedure for each of the steps of independent claim 24. The Examiner's suggestions for how Fiszman could be modified have no basis in Fiszman or any other evidence of record. Therefore, a prima facie case of obviousness has not been made and the rejection should be withdrawn.

Dependent claim 27 depends on amended independent claim 26. For the reasons set forth above in the discussion of claim 26, the rejection is obviated by the amendment to independent claim 26. Applicant continues to challenge the Examiner's Official Notice taken in the Office Action as well as the Official Notice taken in the Office Action dated August 2, 2006. Without a specific diagram and associated written description in a cited reference, Applicant is unable to determine the factuality of either one of the Official Notices.

Moreover, dependent claim 27 is unobvious over Fiszman because Fiszman lacks the controller recited in independent claim 25 for the reasons set forth in the discussion of independent claim 25.

For the reasons set forth above, it is submitted that the rejection of claims 24, 25 and 27 under 35 U.S.C. 103(a) is erroneous or obviated by the amendment and should be withdrawn.

The Office Action rejects claim 15 under 35 U.S.C 103(a) as unpatentable over U.S. Patent Publication No. 2003/0190593 to Wisnosky et al., hereafter Wisnosky.

This rejection is traversed. The Examiner admits that Wisnosky does not disclose the following step of independent claim 15:

“determining whether a previous state transition for said object required a previous electronic signature, if said current state transition requires a current electronic signature”.

The Examiner takes Official Notice of a business practice and contends that claim 15 is obvious over the combination of the Official Notice and Wisnosky. The Examiner must have a great deal of knowledge in the business practice as it takes 12 lines to describe. There must be a written record somewhere of this particular business practice and the Examiner is requested to produce it so that Applicant be properly advised of exactly how the business practice works in detail.

As described, the business practice is that a purchase order is first signed by the person who generates it and then is subsequently signed by a person having authority to approve the purchase order. This is a peculiar business practice since most commercial purchasing departments generate purchase

orders for signature by an authorized person. The person generating the purchase order has authority to sign or prepares it for signature by an authorized person. Moreover, the Examiner's reference to a second signature on the purchase order to go to "payment state" is not understood. In commercial settings, purchasing and accounts payable are two separate activities. Payment for goods or services is made only on an invoice issued by the vendor. The approval to pay signature is made by the activity within the organization that received the goods/services. Thus, the Examiner's business practice is peculiar and not a customary business procedure. Because of its peculiarity, Official Notice of it is challenged. The Examiner must provide written evidence of the procedure. Without written evidence, the Official Notice is improper and should be withdrawn.

The combination of Official Notice and Wisnosky lacks any suggestion or motivation to combine. The Official Notice concerns a purchasing activity. On the other hand, Wisnosky concerns a multiple user database system for generating individual transition plans for a student that are based upon current performance levels, post school goals and available transition services and resources to assist in achieving the post school goals (paragraph 0014). There is nothing in Wisnosky that discloses or suggests a need for adding a purchasing activity to the database system.

The Office Action suggestion to use the combination of Official Notice and Wisnosky is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made." Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC,

1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

For the reason set forth above, it is submitted that the rejection of claim 15 under 35 U.S.C. 103(a) is erroneous and should be withdrawn.

The Office Action rejects claims 4-6, 9, 10, 12, 14, 19, 22, 31, 34 and 35 under 35 U.S.C 103(a) as unpatentable over Fizzman in view of Wisnosky.

Wisnosky is an improper reference because it is for a non-analogous art. Fizzman is directed to a process automation system for the control of an industrial process. Wisnosky is directed to the art of "measuring educational performance levels". These two arts are unrelated and non-analogous. Therefore, the combination of Fizzman and Wisnosky is improper and inapplicable to claims 4-6, 9, 10, 12, 14, 19, 22, 31, 34 and 35.

With respect to dependent claims 4-6, 9, 10, 14, 19, 22, 31, 34 and 35, Fizzman lacks steps/elements as set forth in the discussion above for independent claims 1, 13, 18, 21 and 26, which are parent claims for these dependent claims. Wisnosky, which was cited for a different reason, does not supply the deficiencies of Fizzman. Therefore, claims 4-6, 9, 10, 14, 19, 22, 31, 34 and 35 are patentable over the combination of Fizzman and Wisnosky.

The Office Action suggestion to combine Fizzman with Wisnosky is improperly based on the hindsight of Applicants' disclosure. Such hindsight reconstruction of the art cannot be the basis of a rejection under 35 U.S.C. 103. The prior art itself must suggest that modification or provide the reason or motivation for making such modification. In re Laskowski, 871 F.2d 115, 117, 10 USPQ 2d 1397, 1398-1399 (CAFC, 1989). "The invention must be viewed not after the blueprint has been drawn by the inventor, but as it would have been perceived in the state of the art that existed at the time the invention was made."

Sensonics Inc. v. Aerosonic Corp. 38 USPQ 2d 1551, 1554 (CAFC, 1996), citing Interconnect Planning Corp. v. Feil, 774 F. 2d 1132, 1138, 227 USPQ 543, 547 (CAFC, 1985).

It is respectfully requested for the reasons set forth above that the rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) be withdrawn, that claims 1-37 be allowed and that this application be passed to issue.

Respectfully Submitted,

Date: _____

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